IAP7 Rec'd PCT/PTO 18 AUG 2006

**PATENT** 

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael BUSCHLE Karen LINGNAU

Serial No.: 10/550,820

Filed: September 23, 2005

For: USE OF ALUM AND A TH1 IMMUNE

RESPONSE INDUCING ADJUVANT

FOR ENHANCING IMMUNE

**RESPONSES** 

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: SONN:077US

EXPRESS MAIL MAILING LABEL

NUMBER EV 414867397 US

DATE OF DEPOSIT August 18, 2006

# RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

## **MS PCT**

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

Sir:

In response to the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), dated June 19, 2006, there are enclosed herewith:

- (a) Substitute Sequence Statement;
- (b) Paper Copy of Substitute Sequence Listing;
- (c) Computer Readable Form (CRF);

(d) A copy of Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US);

The Notification of Missing Requirements states that an "oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b)" must be furnished within the period set forth in order to complete the requirements for acceptance under 35 U.S.C. 371. This is incorrect, for the reasons set forth below.

37 CFR 1.497(a) states, in part:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to §1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1, he or she must file an oath or declaration... (emphasis added)

A proper declaration under PCT Rule 4.17(iv) was included with the PCT Request; the Request was signed by all the inventors in Box No. X of the Request as allowed by the PCT rules ("[w]here the declaration is included in the request, the inventor(s) need not sign and date the declaration if they have signed in Box No. X of the request"); and a copy of the Request was provided to the Office on September 23, 2005, the date this application was submitted to the Office by Express Mail for entry into the national stage. The copy of the PCT Request submitted to the Office on September 23, 2005, identifies both the international application to which it is directed and the filing date of the international application.

Additionally, PCT Rule 51bis.2 states, in part (b):

- (b) Where the applicable national law requires that national applications be filed by the inventor, the designated Office shall not, unless it may reasonably doubt the veracity of the indications or declaration concerned, require any document or evidence:
  - (iii) containing an oath or declaration of inventorship (Rule 51bis.1(a)(iv)), if a declaration of inventorship, in accordance with Rule 4.17(iv), is contained in the request or is submitted directly to the designated Office. (emphasis added)

Therefore, a proper declaration pursuant to PCT Rule 4.17(iv) was submitted in this

national stage application, and no additional oath or declaration is required. Further, as indicated

in the Notification of Missing Requirements, all other items required for acceptance under 35

U.S.C. 371 were submitted by Applicants on September 23, 2005. Pursuant to the above, this

application is to be accorded a 371 date of September 23, 2005.

In addition, Applicants maintain that, in view of the above, the \$130.00 surcharge

requested in the Notification of Missing Requirements is not due and should be waived. If, for

some reason, the Office determines that the \$130.00 surcharge is still due, or should any

additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the

enclosed materials, then the Commissioner is authorized to deduct or credit the appropriate fees

from or to Fulbright & Jaworski Deposit Account No.: 50-1212/SONN:077US.

Please date stamp and return the accompanying postcard to evidence receipt of these

documents.

08/23/2006 HKAYPAGH 00000073 501212

212 10550820

01 FC:1617

130.00 DA

Austin, Texas 78701

Mark B. Wilson Reg. No. 37,259

Attorney for Applicants

Respectfully submitted

(512) 474-5201

Date:

August 18, 2006

FULBRIGHT & JAWORSKI L.L.P.

600 Congress Avenue, Suite 2400

PTO/SB/21 (09-04) MODIFIED

TRANSMITTAL		Application Number:	10/550,820		
		Filing Date:	September 23, 2005		
		First Named Inventor:	Michael BUSCHLE		
		Art Unit:	Unknown		
		Examiner Name:	Unknown		
Total Number of Pages in this Submission:		Attorney Docket Number:	SONN:077US		
ENCLOSURES (check all that apply)					
Fee Transmittal For Fee Attached  Amendment/Reply After Final Affidavits/declar  Extension of Time Express Abandonm  Express Abandonm  Information Disclor Statement Form PTO-1449  References Foreign Search F  Certified Copy of P Documents  Reply to Missing P Requirements  Reply to Missing P Requirements	ration(s)  Request nent Request sure  Report Priority  CI Parts/	censing-related Papers  tition  tition to Convert to a Provisional pplication  over of Attorney, Revocation, hange of Correspondence ddress  Statement under 37 CFR §3.73(b)  Designation of Patent Practitioners  erminal Disclaimer  equest for Refund  D, Number CD(s)  Landscape Table on CD	After Allowance Communication to TC  Appeal Communication to Board of Appeals and Interferences  Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  Proprietary Information  Status Letter  Other Enclosure(s) (please identify below)  Check in the amount of \$  Authorized to be charged to deposit account if check insufficient or inadvertently omitted Deposit account number: 50-1212/SONN:077US  Sequence Statement  Paper Copy of Sequence Listing  Computer Readable Form (CRF)  Postcard		
Copy of Notice of Parts/Requirements	Rema	Remarks:			
	į		·		
	SIGNATU	RE OF APPLICANT, ATTOR	RNEY, OR AGENT		
Firm Name Fulbri	Fulbright & Jaworski L.L.P.		Customer Number 32425		
Signature ////					
Printed Name Mark	B. Wilson		Reg. No. 37,259		
Date Augus	st 18, 2006				

EXPRESS MAIL MAILING LABEL

NUMBER \_EV 414867397 US

DATE OF DEPOSIT \_ August 18, 2006



## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

FIRST NAMED APPLICANT ATTY. DOCKET NO. U.S. APPLICATION NUMBER NO.

10/550,820

Michael Buschle

SONN:077US

INTERNATIONAL APPLICATION NO.

PCT/EP04/03029

PRIORITY DATE I.A. FILING DATE

03/22/2004

03/24/2003

32425 FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. **SUITE 2400** AUSTIN, TX 78701

**CONFIRMATION NO. 8341 371 FORMALITIES LETTER** \*OC00000019313370\*

Date Mailed: 06/19/2006

## NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/23/2005
- Copy of the International Search Report filed on 09/23/2005
- Preliminary Amendments filed on 09/23/2005
- Biochemical Sequence Diskette filed on 09/23/2005
- Biochemical Sequence Listing filed on 09/23/2005
- U.S. Basic National Fees filed on 09/23/2005
- Substitute Specification filed on 09/23/2005
- Assignment filed on 09/23/2005
- Priority Documents filed on 09/23/2005
- Specification filed on 09/23/2005
- Claims filed on 09/23/2005
- Abstracts filed on 09/23/2005
- Drawings filed on 09/23/2005
- Paper nucleotide sequence listings filed on 09/23/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the

missing items identified in this letter.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.
  - A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of
    the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as
    indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a
    substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content
    of the sequence listing information recorded in computer readable form is identical to the written (on paper
    or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR
    1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice **MUST** be returned with the response.

PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

### PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/550,820	PCT/EP04/03029	SONN:077US